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No. 110

In the Supreme Court of the United States

OCTOBER TERM, 1932

ALBERTO COSTANZO, PETITIONER

v.

ANNA C. M. TILLINGHAST, UNITED STATES COMMISSIONER OF IMMIGRATION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR THE RESPONDENT

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OPINIONS BELOW

The order of the District Court appears at R. 5. The majority and concurring opinions of the Circuit Court of Appeals (R. 35, 39) are reported in 56 F. (2d) 566.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on February 25, 1932. (R. 40.) Petition for certiorari was filed on May 25, 1932, and was granted on October 10, 1932. (R. 40.) The jurisdiction of this Court rests upon Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether under Section 19 of the Immigration Act of 1917, an alien found managing a house of prostitution must be taken into custody and deported within five years after entry, or whether such arrest and deportation may be effected at any time after entry.

2. Whether there was sufficient evidence to support the administrative finding that petitioner was managing a house of prostitution.

STATUTE INVOLVED

Section 19 of the Immigration Act of February 5, 1917, c. 29, 39 Stat. 874, 889–890 (U. S. C., Title 8, Sec. 155), reads as follows:

> That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this Act, or in violation of any other law of the United States; any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law, or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one

year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted, or who admits the commission, prior

to entry, of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported:

Provided, That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this Act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this Act: *Provided further*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this Act; nor shall any alien convicted as

aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further*, That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further*, That any person who shall be arrested under the provisions of this section, on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provisions of this Act, or of any law or treaty, the decision of the Secretary of Labor shall be final.

STATEMENT

Petitioner, a citizen of Italy, who entered this country about 1905, was arrested on an immigration warrant dated March 16, 1926, which charged him with being in the country unlawfully in that, after entry, he was found managing a house of prostitution. (R. 1, 3, 10, 27.) It appears from petitioner's testimony at the various hearings before the immigration authorities that he was born in Italy and came to this country at the age of five.

He has never taken any steps to become a citizen. (R. 8, 12, 13, 18.) In 1916 or 1917 he was convicted of stealing a machine, for which he served six months in jail. (R. 14.) In December, 1925, he was convicted in a State court in Rhode Island, following a plea of "nolo," of the charge of "harboring for prostitution," and was sentenced to three years in prison, of which sentence he served sixteen months and fourteen days, when he was paroled. (R. 6, 8, 14–15, 21, 24–25.) As the result of information supplied by the judge who sentenced him, an investigation, out of which the present charge grew, was begun by the immigration authorities. (R. 7–8.)

Although petitioner denied that he was running a house of prostitution, he admitted that the premises were leased in his name, and that, while he paid but $30.00 monthly rent, he subleased the premises for $15 per week to one Ritchie, who, he maintained, operated the place as a house of ill fame, and was sentenced, on account thereof, to two years in prison. (R. 15, 19, 22.) He also admitted that on one occasion he took to this place in his car, a girl whom he had heard was not of good moral character, and that he knew she was going there for the purpose of prostitution. (R. 15–16, 20–21.) She apparently remained there as one of the inmates, for three days later, when the place was raided by the State police, she was still there. (R. 16, 20.) Petitioner was also present at the time the house was raided. (R. 16, 21.) At least twice a

week petitioner was at the place to collect the "rent" and to bring "supplies," according to agreement between him and Ritchie. (R. 19, 22–23.)

As a result of this testimony the immigration authorities found that petitioner was managing a house of prostitution, and on August 26, 1927, issued a warrant for his deportation. (R. 25–28.)

Petitioner thereupon filed in the United States District Court for Massachusetts a petition for writ of *habeas corpus*, which appears to have been based principally upon the ground that the effect of deporting him would be to impose additional punishment for the crime against the State of Rhode Island which he had already expiated, and that deportation would consequently constitute cruel and unusual punishment, in violation of the Eighth Amendment. (R. 1–3.) A summons was issued to respondent to show cause why the writ should not be granted. (R. 4.) After a hearing the court dismissed the petition. (R. 5.) On appeal its judgment was affirmed. (R. 40.) The assignment of errors shows that petitioner based his appeal to the Circuit Court of Appeals on only two grounds: 1. The District Court erred in not concluding that deportation was a cruel and unusual punishment; 2. The District Court abused its discretion in not granting the petition for a writ of habeas corpus, "notwithstanding the specific wording of the Immigration Act of February 5, 1917." (R. 34–35.) Neither of these questions was raised in the petition for certiorari.

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SUMMARY OF ARGUMENT

The legislative history, the administrative construction, and the judicial analysis of the statute show that Section 19 of the Immigration Act of 1917 imposed no limit upon the time after entry within which it is permissible to deport an alien found managing a house of prostitution.

A deportation order is to be upheld, in *habeas corpus* proceedings, if there is evidence to support the administrative findings upon which the order is based. In the instant case the officials were clearly justified in concluding that petitioner was managing a house of prostitution, and the Court should not again inquire into the issue, particularly in view of the fact that petitioner now seeks to raise the question of the sufficiency of the evidence for the first time.

ARGUMENT

I

THE ORDER OF DEPORTATION WAS VALID, ALTHOUGH NO STEPS WERE TAKEN TO EXPEL PETITIONER WITHIN FIVE YEARS OF HIS ENTRY INTO THIS COUNTRY

The power to exclude or expel any class of aliens is an attribute of sovereignty, and hence Congress may provide for the deportation of undesirable aliens at any time after their entry or admission to this country. See *Fong Yue Ting* v. *United States*, 149 U. S. 698; *Skeffington* v. *Katzeff*, 277 Fed. 129, 131 (C. C. A. 1st); *Lopez* v. *Howe*, 259 Fed. 401 (C. C. A. 2nd), appeal dismissed, 254 U. S. 613. The question to be

decided in the instant case is whether the Immigration Act of 1917 imposed any time limitation on the exercise of that power in the case of aliens found managing houses of prostitution.

The Immigration Act of February 20, 1907 (c. 1134, Sec. 3, 34 Stat. 898, 899), provided that alien women or girls might be deported if found in a house of prostitution, or practicing prostitution, within three years after entry into this country. The Act of March 26, 1910 (c. 128, Sec. 2, 36 Stat. 263, 264), amended the 1907 Act by making such an alien deportable at any time after admission to the United States. See *Bugajewitz* v. *Adams*, 228 U. S. 585; *Ex parte Cardonnel* 197 Fed. 774 (N. D. Cal.); *Siniscalchi* v. *Thomas*, 195 Fed. 701 (C. C. A. 6th); *Chomel* v. *United States*, 192 Fed. 117 (C. C. A. 7th), certiorari denied 223 U. S. 723; *Dickman* v. *Williams*, 183 Fed. 904 (S. D. N. Y.). The 1910 amendment of the Act of 1907, in the same section, contained the further provision that—

> Any alien * * * connected with the management of a house of prostitution * * * or who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute, shall be deemed to be unlawfully within the United States and shall be deported * * *.

It is clear that under the amendment of the 1907 Act, an alien charged, as is the case here, with being the manager of a house of prostitution could be arrested and deported as an undesirable alien at any time, regardless of the date of his entry or admission to this country. Section 19 of the Act of 1917 repeated the wording of the 1910 amendment in substance, so far as it relates to this class of aliens.

In addition, Section 19 defined, either in detail or by general reference, all the cases in which aliens might be arrested and deported. In some instances a definite period of limitation was stated; in others no limitation was indicated. The section further provides "that the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States." No exception is noted which is applicable in such cases as this.

Petitioner contends that where no period of limitation was stated, it was the legislative intent to bar deportation after five years. The section commences with the clause "That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; * * *" This clause is followed by many others, connected by semicolons. Some of them contain time limitations, others do not. Among the clauses that follow is the one authorizing deportation of an alien who, like petitioner, has been found managing a house of prostitution. This clause contains no time

limitation, but petitioner maintains that the opening phrase of the section, "That at any time within five years * * *" must be read into each following provision, instead of being limited to the clause it directly modifies.

The history of this legislation shows the Congressional intent not to place any time restriction upon the deportability of aliens adjudged to be undesirable on grounds of sexual immorality or conduct inimical to the public welfare in this respect. Not only is it to be inferred that this was the will of Congress in view of the amendment and extension of the 1907 Act, as noted above, but it is confirmed by committee reports that were before Congress at the time of the 1917 legislation. Senate Report No. 352 to accompany H. R. 10384 (64th Cong., 1st Sess.), states with reference to Section 19 (pp. 14–15):

> * * * To the fullest extent practicable this section has been made to include all of the classes subject to deportation after having entered the country; this is accomplished in two ways, first, by enumerating the classes and indicating the period, where any is set, within which deportation must be effected, and, second, by incorporating in this section, in much plainer language, the provisions of sections 20 and 21 of the existing law. * * *
>
> With respect to each class, wherever a limitation of time is placed upon deportation it has been changed to five years, with the exception of those who merely enter surreptitiously or without inspection * * *,

> the limitation of existing law being three years. *Prostitutes, procurers, and other members of the classes inhibited on grounds of sexual immorality have been subject to deportation without time limitation since the passage of the act of March 26, 1910* (36 Stat. 263); * * * *This policy is continued, and certain other classes equally undesirable have been included within its scope.* * * *[1] (Italics ours.)

See also House Report No. 95, to accompany H. R. 10384 (64th Cong., 1st sess.), p. 1.

The contemporaneous administrative construction of Section 19 gave full effect to the apparent intent of Congress. Rule 22 of the Rules of the Bureau of Immigration of May 1, 1917 (1st ed., May, 1917), stated that all cases in which aliens might be deported under Section 19 fell into divisions enumerated in that rule, and continued as follows:

> With respect to each of these divisions the law is retrospective or not and the time within

[1] It may be noted that in the 68th and 69th Congresses proposals to change the Immigration Laws were introduced in and passed by the House of Representatives. Both bills were apparently designed to render more stringent the then existing legislation. House Report No. 1292, to accompany H. R. 11796 (68th Cong., 2nd Sess.), pp. 6, 9, indicates the belief of the Committee on Immigration and Naturalization that aliens connected with the management of houses of prostitution might be deported without any time limitation, and that therefore change in Section 19 of the 1917 Act was not required in this respect. House Report No. 1348, to accompany H. R. 12444 (69th Cong., 1st Sess.), dealt with a bill similar to that discussed at the preceding session, and indicated the same Congressional belief that no change was needed to make possible the deportation of aliens of this class at any time after entry.

which deportation proceedings may be instituted is limited or not, as indicated below.

(a) Any alien who has entered the United States prior to May 1, 1917, and who at the time of entry was a member of any one of the classes excluded under any provision of the Immigration Act of February 20, 1907; limitation five years; retrospective.

(b) Any alien who has entered the United States subsequent to April 30, 1917, and who at the time of entry was a member of any one of the classes excluded by Section 3, or the last proviso to Section 18, or the last proviso to Section 23, of the Act of February 5, 1917; limitation five years; not retrospective.

* * * * *

(*k*) Any alien who shall be found an inmate of or connected with the management of a house of prostitution; no limitation; retrospective.

(*l*) Any alien who shall be found practicing prostitution; no limitation; retrospective.

(*m*) Any alien who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; no limitation; retrospective.

(*n*) *Any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather; no limitation; retrospective.*

(*o*) Any alien who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; no limitation; retrospective.

> (*p*) Any alien who shall import or attempt to import any person for the purpose of prostitution or other immoral purpose; no limitation; retrospective. * * * (Italics ours.)

Rule 22 was carried forward, in so far as now material, into each succeeding amendment of the Rules of May 1, 1917: 2nd ed. November, 1917; 3rd ed. March, 1919; 4th ed. February, 1920; 5th ed. December, 1920; 6th ed. September, 1921; 7th ed. August, 1922. See also Rules of the Bureau of Immigration of February 1, 1924, p. 31; Rules of the Bureau of Immigration July 1, 1925, p. 63. The consistent construction of the section by the officers charged with its enforcement, and the failure of Congress to repeal or amend the section in the face of this interpretation, despite frequent legislation on other matters arising under the immigration laws, lend substance to the presumption that the administrative construction is correct and hence should not be disturbed. See *McCaughan* v. *Hershey Chocolate Co.*, 283 U. S. 488, 492; *Faweus Machine Co.* v. *United States*, 282 U. S. 375, 378; *Brewster* v. *Gage*, 280 U. S. 327, 336.

Aside from these extrinsic aids to construction, the grammatical structure of Section 19 plainly shows that it permits the deportation, without any time limitation, of one deemed to be undesirable because involved in the management of a house of prostitution. Section 19 provides:

> That at any time within five years after entry, any alien who at the time of entry was

> a member of one or more of the classes excluded by law; * * * shall, upon the warrant of the Secretary of Labor, be taken into custody and deported. * * *

Between the first clause of this sentence and its conclusion appear every class of aliens subject to deportation. Thus, the section provides that "any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property * * *" may be expelled from the country. Another clause states that "at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials" shall be taken into custody and deported. It is petitioner's contention that the opening phrase of this lengthy sentence must be read into each succeeding clause, so that the limitation of "within five years after entry" shall apply to every instance where no definite restriction was stated. This contention disregards the customary rules of grammar and punctuation. The section does no more than compile cases in which the Secretary of Labor has been given authority to deport aliens, leaving the time for deportation unlimited except in a few specific cases.

The clauses in the sentence which comprise the section are of coordinate value. Their combination in one sentence is to be explained on the ground that they are related in thought and purpose, rather than on the ground that they could not stand grammati-

cally independent of each other. As was said in *Grkic* v. *United States*, 3 F. (2d) 276 (C. C. A. 7th): "In punctuation, the semicolon is used to separate a complete thought in one clause from other related matter in another clause of the sentence. In Section 19 the semicolon has been used to separate various classes subject to deportation. * * *" See also *McLeod* v. *Nagle*, 48 F. (2d) 189 (C. C. A. 9th).

The conclusion that the five-year limitation on the deportability of an alien "who at the time of entry was a member of one or more of the classes excluded by law" does not apply to all the other classes of aliens mentioned in the same section, is supported by the third proviso, which follows all of the clauses, reading:

> *Provided further*, That the provisions of this section, *with the exceptions hereinbefore noted*, shall be applicable to the classes of aliens therein mentioned, irrespective of the time of their entry into the United States. (Italics ours.)

This proviso, as observed by the Circuit Court of Appeals for the Ninth Circuit in *McLeod* v. *Nagle*, *supra*, p. 191, "seems clearly to indicate, in words as unambiguous as Congress could have used, that, in each subdivision of Section 19 in which no time limit is specifically provided, no time limit is intended."

With one exception, all of the authoritative decisions under Section 19 support the construction for which we contend. See *Tillinghast* v. *Di Pierro*, 54 F. (2d) 459 (C. C. A. 1st), certiorari denied because petition was not filed in time, 286 U. S. 560; *Ranieri* v. *Smith*, 49 F. (2d) 537 (C. C. A. 7th), certiorari denied, 284 U. S. 657; *McLeod* v. *Nagle, supra; Pillisz* v. *Smith*, 46 F. (2d) 769 (C. C. A. 7th); *Millard* v. *Tuttle*, 46 F. (2d) 342 (E. D. La.); *Shladzien* v. *Warden of Eastern District Penitentiary*, 45 F. (2d) 204 (E. D. Pa.); *De Fillipo* v. *Tillinghast*, 31 F. (2d) 384, affirmed, 31 F. (2d) 1009 (C. C. A. 1st); *Weinbrand* v. *Prentis*, 4 F. (2d) 778 (C. C. A. 6th); *Weedin* v. *Yamada*, 4 F. (2d) 455 (C. C. A. 9th); *Grkic* v. *United States, supra; Tzarkis* v. *Ebey*, 3 F. (2d) 277 (C. C. A. 7th); *Lauria* v. *United States*, 271 Fed. 261, 263 (C. C. A. 2nd), certiorari denied, 257 U. S. 635; *Ex parte Gin Kato*, 270 Fed. 343 (W. D. Wash.); *Guiney* v. *Bonham*, 261 Fed. 582 (C. C. A. 9th).

We have found only one decision of a Circuit Court of Appeals holding that Section 19 of the 1917 Act provides generally that the deportation of aliens thereunder can not take place more than five years after entry into this country. In *Hughes* v. *Tropello*, 296 Fed. 306 (C. C. A. 3rd), the court concluded that action against an alien must be concluded within that period to warrant his expulsion. In that case, it may be noted, the question argued before the court was

not whether the five-year limitation in the first clause applied to all clauses of Section 19, but whether proceedings against the offending alien were required to be completed, or merely instituted, within five years after his entry or admission. The Government apparently did not dispute that the five-year period applied. The *Tropello* case has been ignored or expressly disapproved by every Circuit Court of Appeals which has had occasion to consider the matter, and seems unsupported by any authority, judicial, legislative, or administrative.

II

THE QUESTION WHETHER THERE WAS EVIDENCE TO SUSTAIN THE ADMINISTRATIVE FINDING IS NOT PROPERLY BEFORE THE COURT. IN ANY EVENT, THE FINDING IS SUPPORTED BY SUFFICIENT EVIDENCE, AND SHOULD NOT BE DISTURBED

The contention that there was insufficient evidence to warrant the immigration authorities in finding that petitioner was managing a house of prostitution, was not raised in the District Court in the petition for writ of *habeas corpus* or in the assignment of errors in the court below, nor was it passed upon by that court. Accordingly, we submit that the question is not now properly before this Court and that its consideration is not warranted by the circumstances of the case.

Even if the question is treated as open upon this record, however, it is clear that the evidence was amply sufficient to support the order of deportation. In *habeas corpus* proceedings an order of deportation

is to be upheld if there is any evidence to support it, and if there is no error so shocking as to convince a court that the hearings or trial have been essentially unfair. See *Vajtauer* v. *Commissioner of Immigration*, 273 U. S. 103, 106; *Tisi* v. *Tod*, 264 U. S. 131. In *Low Wah Suey* v. *Backus*, 225 U. S. 460, 468, the Court said:

> * * * hearings before executive officers may be made conclusive when fairly conducted. In order to successfully attack by judicial proceedings the conclusions and orders made upon such hearings it must be shown that the proceedings were manifestly unfair, that the action of the executive officers was such as to prevent a fair investigation or that there was a manifest abuse of the discretion committed to them by the statute * * *.

See also *Zakonaite* v. *Wolf*, 226 U. S. 272, 275.

Judged by these general tests, the hearings before the immigration officials were free from any defect. The alien was afforded an opportunity to inspect the warrant of arrest and the evidence upon which it was issued, which privilege was accepted. (R. 11.) He was informed of his right to be represented by counsel (R. 12), and he employed an attorney, who was present at the hearings before the Inspector of Immigration. The privilege of cross-examination was freely extended.

The charge upon which the order of deportation issued was that the alien had been found managing a house of prostitution. In support of the administra-

tive finding there was evidence that the alien had transported in his automobile to the house of prostitution a girl whom he had heard was not of good moral character, and that he knew she was going there for the purpose of prostitution. (R. 15–16, 20–21.) The record also shows that he had agreed with Ritchie, who occupied the house, that he would bring to it twice weekly such supplies as were needed by the occupants. (R. 19, 23.) The alien testified that he rented the house in question for $30 a month and sublet it to Ritchie for $15 a week. (R. 19, 22.) Prior to this time he testified that he had been employed as a laborer in a cotton mill. (R. 21.)

From all the circumstances, it seems plain that the officials were justified in believing that the alien was actively concerned in the management of this house of ill fame. Thus the officials were warranted in concluding that the alleged arrangement with Ritchie was merely a subterfuge resorted to by the alien to conceal his actual interest in the business of prostitution (see *Caranica* v. *Nagle*, 23 F. (2d) 545 (C. C. A. 9th), certiorari denied, 277 U. S. 589), and the fact that the defendant transported to the place a woman whom he knew to be a prostitute, of whose purpose in going there he was aware, together with the circumstance that he regularly carried to the establishment such supplies as were needed, might well indicate that he was intimately connected with its management. See *Ex parte Psimoulos*, 222 Fed. 118 (S. D. Cal.), appeal dismissed, 224 Fed. 1022 (C. C. A. 9th).

The fact that petitioner was tried in Rhode Island and convicted in the State Court for the offense of "harboring for prostitution" and not for "managing a house of prostitution," is, of course, immaterial.[2] It is established that a previous conviction in a criminal proceeding is not a requisite to a valid warrant for deportation on a charge that an alien has been found managing a house of prostitution. *Gambroulis* v. *Nash*, 12 F. (2d) 49 (C. C. A. 8th). And, indeed, acquittal by a jury of the charges that are made the basis of the order of deportation does not invalidate the order or show that it was not supported by sufficient evidence. See *Weinbrand* v. *Prentis*, 4 F. (2d) 778 (C. C. A. 6th); *Ex parte Young*, 211 Fed. 370, 373 (W. D. Wash.).

In the light of all the circumstances and the testimony at the hearings, we submit that there was evidence to sustain the administrative determination, and accordingly we urge that the finding made upon the basis of that evidence is beyond attack in such a proceeding as this. *Vajtauer* v. *Commissioner of Im-*

[2] The record does not disclose the particular section of the State statutes which petitioner was convicted of violating. Section 6, Chap. 399, General Laws of Rhode Island, 1923, makes it an offense punishable by imprisonment for not more than five years "for any person to secure a female for a house of ill-fame, or to procure for a female a place as inmate of a house of ill-fame, or by any promise * * * to cause, induce, persuade or encourage a female to * * * become an inmate of a house of ill-fame, or enter a place in which prostitution is encouraged or allowed, or remain therein as such inmate * * *."

migration, supra; Caranica v. *Nagle, supra; Morrell* v. *Baker*, 270 Fed. 577 (C. C. A. 2d), appeal dismissed, 258 U. S. 606.

CONCLUSION

The decision of the court below is correct and should be affirmed.

Respectfully submitted.

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